

**REMARKS**

**I. Disposition of the Claims**

Claims 25-48 are pending and new. Claims 5-6, 20, and 22-24 are cancelled, without prejudice or disclaimer, by this paper. Claims 1-4, 7-19, and 21 have already been cancelled.

New claims 25-36 belong with the elected group. New claims 37-48 embrace subject matter exceeding that of the elected group.

**II. Statement about the Amendment**

**A. Relation to Previously Allowed Claims**

Cancelled vaccine claims 5-6 and 22-24 were allowed. The PTO is invited to compare these claims with present claims 25-28.

Cancelled method claim 20 was allowed. The PTO is invited to compare this claim with present claims 29-31.

The PTO is invited to compare the previously allowed claims with present claims 32-36.

**B. Notice is hereby provided under 35 U.S.C. § 135(b).**

New claims 37-43 are copied verbatim from Application Publication No. 2002/0055189, (enclosed for consideration) published May 9, 2002. Each claim's patentability is now being studied. Support for these claims has yet to be determined.

Along these lines, new claims 44-48 parallel those from Publication No. 2002/0055189. Support for each claim may be found, e.g., in the specification at the following passages:

**Claim 44:** Pages 52-*et seq.*; Example 1, especially page 53, lines 22-23.

**Claim 45:** Page 5, line 6; page 36, lines 18-20; page 42, l. 3; page 58, l. 15-*et seq.*, and Example 2.

**Claim 46:** Page 34, line 29-page 35, line 13, and Example 6.

**Claim 47:** Page 1, lines 10-11; page 42, line 13; and page 45, lines 11-15.

**Claim 48:** Page 1, lines 10-11; page 35, lines 14-17; page 42, line 13; and page 45, lines 11-15.

It is believed that claims of the '189 publication would correspond to count(s) based on pending claims 37-48 of this application. Applicants are contemplating preparing a request for interference under Rule 604 to be submitted at a later date.

As the present application is filed February 28, 2000, this amendment is not barred by 35 U.S.C. § 135(b).

### **III. Examiner's Interview**

Sean A. Passino (45,943) acknowledges and appreciates the Examiner's interview of May 5, 2003, initiated by the Examiner. During this interview, three major items were discussed: (1) claim for priority; (2) the continuity of disclosure of the parent application and the present substitute-specification, which is a CIP of International Application No. PCT/FR98/02634; and (3) the oath/declaration. Item (1) is addressed by the amendment to the specification correcting the previous amendment perfecting the claim for priority. Items (2)-(3) are addressed in subsequent sections.

### **IV. Continuity of Disclosure with PCT/FR98/02634**

The Examiner requested assistance determining the continuity of disclosure. In response, attached with this paper are Exhibits A-C. Exhibit A is a DeltaView comparison of Exhibits B and C. DeltaView is a commercial program that compares differences between the text of two files. Exhibit B, according to the undersigned's records, is the electronic copy of the English language translation of PCT/FR98/02634's publication (WO 99/29871), and Exhibit C, according to the undersigned's records, is an electronic copy of the present application as-filed. The comparison was performed using Exhibit B as the original document. Each Exhibit A-C is enclosed herewith.

The written description support for the pending claims is believed in the PCT/FR98/02634 as-filed. Citing the PCT's English language translation, Exhibit B, support may be found, e.g., in the following passages following each enumerated claim.

**Claim 25:** Page 1, line 15; page 10, line 35 (Seq. Id. No. 12); page 12, lines 20-22; and page 42, lines 22-25.

**Claim 26:** Page 40, lines 8-13.

**Claim 27:** Page 42, lines 22-25.

**Claim 28:** Page 12, lines 20-22.

**Claim 29:** Page 1, lines 15-16; page 10, line 35 (Seq. Id. No. 12); page 12, lines 20-22; page 42, lines 22-25; and page 45, lines 3-17.

**Claim 30:** Page 40, lines 8-13.

**Claim 31:** Page 42, lines 22-25.

**Claim 32:** Page 12, lines 20-22.

**Claim 33:** Page 1, line 15; page 10, line 35 (Seq. Id. No. 12); page 12, lines 20-22; and page 42, lines 22-25.

**Claim 34:** Page 40, lines 8-13.

**Claim 35:** Page 1, lines 15-16; page 10, line 35 (Seq. Id. No. 12); page 12, lines 20-22; page 42, lines 22-25; and page 45, lines 3-17.

**Claim 36:** Page 1, lines 15-16; page 10, line 35 (Seq. Id. No. 12); page 12, lines 20-22; page 42, lines 22-25; and page 45, lines 3-17.

## **V. Oath**

Even if the present application is a CIP of PCT/FR98/02634, the present oath filed June 26, 2002, is proper. According to Rule 63(b)(1), the oath must identify the application to which it is directed. In this case, the oath file June 26, 2002, is directed to the present application, i.e., U.S. Application No. 09/514,245. (Oath at page 1). Thus, the present oath is not defective, just because the present application is a CIP of PCT/FR98/02634.

## **VII. Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Application No. 09/514,245  
Atty. Doc. No. 065691/0176

In the event the Examiner has any questions, the Examiner is invited to telephone the undersigned representative at the number indicated below.

Respectfully submitted,

Date

6/4/3

By

 (45,943)  
For

FOLEY & LARDNER  
Customer Number: 22428



22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5569

Facsimile: (202) 672-5399

Stephen B. Maebius  
Attorney for Applicant  
Registration No. 35,264

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.

Enclosures:

Exhibits A-C

U.S. Application Publication No. 2002/0055189